

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SENATE BILL 1184

AN ACT

AMENDING SECTION 22-371, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 3, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-677; AMENDING SECTIONS 28-1303, 28-1321 AND 28-1381, ARIZONA REVISED STATUTES; AMENDING SECTION 28-1382, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 219, SECTION 2; REPEALING SECTION 28-1382, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 195, SECTION 3; AMENDING SECTIONS 28-1383, 28-1385, 28-1387, 28-1401, 28-1402, 28-1403, 28-1461, 28-3315 AND 28-3319, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 4, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-1445; RELATING TO DRIVING UNDER THE INFLUENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 22-371, Arizona Revised Statutes, is amended to
3 read:

4 ~~22-371.~~ Right of appeal; procedure for taking appeal; transcript

5 A. The defendant in a criminal action may appeal to the superior court
6 from the final judgment of a justice or municipal court.

7 B. THE APPELLANT IN A HEARING REQUESTED PURSUANT TO SECTION 28-677 MAY
8 APPEAL TO THE SUPERIOR COURT FROM THE FINAL ORDER OF A JUSTICE COURT.

9 ~~B.~~ C. The procedure for appeals from a justice or municipal court to
10 the superior court shall be as provided by rules ~~promulgated~~ ADOPTED by the
11 supreme court.

12 ~~C.~~ D. In a trial in a justice or municipal court, a transcript of the
13 proceedings by a court reporter may be ordered in the sole discretion of the
14 court.

15 ~~D.~~ E. A defendant may not appeal from a judgment or sentence that is
16 entered pursuant to a plea agreement or from an admission to a probation
17 violation.

18 Sec. 2. Title 28, chapter 3, article 4, Arizona Revised Statutes, is
19 amended by adding section 28-677, to read:

20 ~~28-677.~~ Administrative license suspension; traffic accident
21 involving death or serious physical injury; driving
22 under the influence; report; hearing; definition

23 A. IF A LAW ENFORCEMENT OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT A
24 PERSON WHO OPERATED A MOTOR VEHICLE IN THIS STATE CAUSED A TRAFFIC ACCIDENT
25 RESULTING IN DEATH OR SERIOUS PHYSICAL INJURY AND THAT AT THE TIME OF THE
26 ACCIDENT THE PERSON WAS UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS,
27 THE OFFICER SHALL SERVE AN ORDER OF SUSPENSION ON BEHALF OF THE DEPARTMENT.
28 THE ORDER OF SUSPENSION:

29 1. IS EFFECTIVE SEVEN DAYS AFTER THE DATE IT IS SERVED.

30 2. SHALL REQUIRE THE IMMEDIATE SURRENDER OF ANY LICENSE OR PERMIT TO
31 DRIVE THAT IS ISSUED BY THIS STATE AND THAT IS IN POSSESSION OF THE PERSON.

32 3. SHALL CONTAIN INFORMATION CONCERNING THE RIGHT TO A HEARING.

33 4. SHALL BE ACCOMPANIED BY PRINTED FORMS THAT ARE READY TO MAIL TO THE
34 DEPARTMENT AND THAT THE PERSON MAY FILL OUT AND SIGN TO INDICATE THE PERSON'S
35 DESIRE FOR A HEARING.

36 5. SHALL BE ENTERED ON THE DEPARTMENT'S RECORDS ON RECEIPT OF THE
37 REPORT BY THE OFFICER AND A COPY OF THE ORDER OF SUSPENSION.

38 B. IF THE LICENSE OR PERMIT IS NOT SURRENDERED PURSUANT TO SUBSECTION
39 A OF THIS SECTION, THE OFFICER SHALL STATE THE REASON FOR THE NONSURRENDER.
40 IF A VALID LICENSE OR PERMIT IS SURRENDERED, THE OFFICER SHALL ISSUE A
41 TEMPORARY DRIVING PERMIT THAT IS VALID FOR SEVEN DAYS. THE OFFICER SHALL
42 FORWARD A COPY OF THE COMPLETED ORDER OF SUSPENSION, A COPY OF ANY COMPLETED
43 TEMPORARY PERMIT AND ANY DRIVER LICENSE OR PERMIT TAKEN INTO POSSESSION UNDER
44 THIS SECTION TO THE DEPARTMENT WITHIN FIVE DAYS AFTER THE ISSUANCE OF THE
45 ORDER OF SUSPENSION.

1 C. THE DEPARTMENT SHALL SUSPEND THE AFFECTED PERSON'S LICENSE OR
2 PERMIT TO DRIVE OR RIGHT TO APPLY FOR A LICENSE OR PERMIT OR ANY NONRESIDENT
3 OPERATING PRIVILEGE FOR NOT LESS THAN NINETY DAYS.

4 D. THE PERSON MAY SUBMIT A WRITTEN REQUEST TO THE DEPARTMENT FOR A
5 HEARING TO CONTEST AN ORDER OF SUSPENSION ISSUED PURSUANT TO THIS SECTION.
6 THE REQUEST MUST BE RECEIVED WITHIN SEVEN DAYS AFTER THE ORDER OF SUSPENSION
7 IS SERVED. THE DEPARTMENT SHALL TRANSMIT THE REQUEST FOR A HEARING AND THE
8 ORDER OF SUSPENSION FILED PURSUANT TO SUBSECTION B OF THIS SECTION TO THE
9 JUSTICE COURT OF THE PRECINCT IN WHICH THE ACCIDENT OCCURRED ON THE NEXT
10 BUSINESS DAY AFTER THE DEPARTMENT RECEIVES THE REQUEST. THE JUSTICE COURT
11 SHALL CONDUCT THE HEARING WITHIN FIFTEEN DAYS AFTER RECEIPT OF THE REQUEST
12 FOR A HEARING AND ORDER OF SUSPENSION.

13 E. A TIMELY REQUEST FOR A HEARING STAYS THE SUSPENSION UNTIL A HEARING
14 IS HELD, EXCEPT THAT THE DEPARTMENT SHALL NOT RETURN ANY SURRENDERED LICENSE
15 OR PERMIT TO THE PERSON BUT MAY ISSUE TEMPORARY PERMITS TO DRIVE THAT EXPIRE
16 NOT LATER THAN WHEN THE COURT MAKES ITS FINAL DETERMINATION. IF THE PERSON
17 IS A RESIDENT WITHOUT A LICENSE OR PERMIT OR HAS AN EXPIRED LICENSE OR
18 PERMIT, THE DEPARTMENT MAY ALLOW THE PERSON TO APPLY FOR A LICENSE OR PERMIT.
19 IF THE DEPARTMENT DETERMINES THAT THE PERSON IS OTHERWISE ENTITLED TO THE
20 LICENSE OR PERMIT, THE DEPARTMENT SHALL ISSUE, BUT RETAIN, THE LICENSE OR
21 PERMIT, SUBJECT TO THIS SECTION.

22 F. THE ATTORNEY FOR THE JURISDICTION OF THE LAW ENFORCEMENT AGENCY
23 THAT SUBMITTED THE ORDER OF SUSPENSION SHALL REPRESENT THE AGENCY AT THE
24 HEARING. THE SCOPE OF A HEARING UNDER SUBSECTION D OF THIS SECTION SHALL
25 INCLUDE ONLY THE FOLLOWING ISSUES:

26 1. WHETHER THE OFFICER HAD PROBABLE CAUSE TO BELIEVE THAT THE PERSON
27 WHO WAS OPERATING THE MOTOR VEHICLE CAUSED AN ACCIDENT RESULTING IN DEATH OR
28 SERIOUS PHYSICAL INJURY.

29 2. WHETHER THE OFFICER HAD PROBABLE CAUSE TO BELIEVE THAT THE PERSON
30 WAS UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.

31 G. IF THE COURT UPHOLDS THE DEPARTMENT'S SUSPENSION OF THE AFFECTED
32 PERSON'S PRIVILEGE TO OPERATE A MOTOR VEHICLE, THE SUSPENSION SHALL CONTINUE
33 IN EFFECT FOR NINETY CONSECUTIVE DAYS FROM THE ISSUANCE OF THE COURT'S
34 DETERMINATION. THE COURT SHALL TRANSMIT THE COURT'S FINDINGS TO THE
35 DEPARTMENT.

36 H. THE DEPARTMENT AND THE SUPREME COURT MAY ADOPT RULES TO IMPLEMENT
37 THIS SECTION.

38 I. FOR THE PURPOSES OF THIS SECTION, "SERIOUS PHYSICAL INJURY" HAS THE
39 SAME MEANING PRESCRIBED IN SECTION 13-105.

40 Sec. 3. Section 28-1303, Arizona Revised Statutes, is amended to read:

41 28-1303. Oversight council on driving or operating under the
42 influence abatement

43 A. The oversight council on driving or operating under the influence
44 abatement is established consisting of the following ten members:

1 1. The director of the department of public safety or the director's
2 designee.

3 2. The assistant director for the motor vehicle division of the
4 department of transportation or the assistant director's designee.

5 3. The director of the governor's office of highway safety.

6 4. One member of the public who is appointed by the governor.

7 5. One member of the public who is appointed by the speaker of the
8 house of representatives.

9 6. One member of the public who is appointed by the president of the
10 senate.

11 7. One municipal law enforcement member who is appointed by the
12 governor on the recommendation of an Arizona association of chiefs of police.

13 8. One county law enforcement member who is appointed by the governor
14 on the recommendation of an Arizona county sheriff's association.

15 9. One city prosecutor who is appointed by the governor on the
16 recommendation of the Arizona prosecuting attorney's advisory council.

17 10. One county attorney who is appointed by the governor on the
18 recommendation of the Arizona prosecuting attorney's advisory council.

19 B. Members appointed pursuant to subsection A, paragraphs 4, 5, 6, 7,
20 8, 9 and 10 of this section serve three year staggered terms.

21 C. Members appointed pursuant to subsection A, paragraphs 1, 2 and 3
22 of this section shall serve as advisory nonvoting members of the council.

23 D. The voting members of the council shall annually elect a
24 chairperson from among the members. ~~A member shall not serve consecutive~~
25 ~~terms as chairperson.~~

26 E. Members of the council are not eligible to receive compensation,
27 but members who are appointed pursuant to subsection A, paragraphs 4, 5, 6,
28 7, 8, 9 and 10 of this section are eligible for reimbursement of expenses
29 pursuant to title 38, chapter 4, article 2.

30 F. The oversight council on driving or operating under the influence
31 abatement may use the facilities for meeting and the staff of the Arizona
32 criminal justice commission.

33 G. The oversight council on driving or operating under the influence
34 abatement may enter into interagency agreements with the Arizona criminal
35 justice commission and other agencies for agency business.

36 H. The council shall:

37 1. Make grants from the driving under the influence abatement fund
38 established by section 28-1304 to political subdivisions and tribal
39 governments that apply for monies for enforcement purposes, prosecutorial and
40 judicial activities and alcohol abuse treatment services related to
41 preventing and abating driving or operating under the influence occurrences
42 in a motor vehicle or a motorized watercraft as defined in section 5-301.

43 2. Make grants from the driving under the influence abatement fund
44 established by section 28-1304 to innovative programs that use emerging

1 technologies to educate, prevent or deter occurrences of driving or operating
2 under the influence in a motor vehicle or a motorized watercraft.

3 3. Receive quarterly reports from the entities receiving grants and
4 evaluate their effectiveness. The council may make additional grants to the
5 recipients and oversee the progress of those programs.

6 4. On or before December 1 of each year, submit a written report on
7 the effectiveness of the grants provided in reducing the incidence of driving
8 or operating under the influence to the governor, the speaker of the house of
9 representatives, ~~AND~~ the president of the senate and shall provide a copy of
10 this report to the secretary of state and the director of the Arizona state
11 library, archives and public records.

12 Sec. 4. Section 28-1321, Arizona Revised Statutes, is amended to read:

13 28-1321. Implied consent; tests; refusal to submit to test;
14 order of suspension; hearing; review; temporary
15 permit; notification of suspension; special ignition
16 interlock restricted driver license

17 A. A person who operates a motor vehicle in this state gives consent,
18 subject to section 4-244, paragraph 33 or section 28-1381, 28-1382 or
19 28-1383, to a test or tests of the person's blood, breath, urine or other
20 bodily substance for the purpose of determining alcohol concentration or drug
21 content if the person is arrested for any offense arising out of acts alleged
22 to have been committed in violation of this chapter or section 4-244,
23 paragraph 33 while the person was driving or in actual physical control of a
24 motor vehicle while under the influence of intoxicating liquor or drugs. The
25 test or tests chosen by the law enforcement agency shall be administered at
26 the direction of a law enforcement officer having reasonable grounds to
27 believe that the person was driving or in actual physical control of a motor
28 vehicle in this state either:

29 1. While under the influence of intoxicating liquor or drugs.

30 2. If the person is under twenty-one years of age, with spirituous
31 liquor in the person's body.

32 B. After an arrest a violator shall be requested to submit to and
33 successfully complete any test or tests prescribed by subsection A of this
34 section, and if the violator refuses the violator shall be informed that the
35 violator's license or permit to drive will be suspended or denied for twelve
36 months, or for two years for a second or subsequent refusal within a period
37 of eighty-four months, unless the violator expressly agrees to submit to and
38 successfully completes the test or tests. A failure to expressly agree to
39 the test or successfully complete the test is deemed a refusal. The violator
40 shall also be informed that:

41 1. If the test results show a blood or breath alcohol concentration of
42 0.08 or more, or if the results show a blood or breath alcohol concentration
43 of 0.04 or more and the violator was driving or in actual physical control of
44 a commercial motor vehicle, the violator's license or permit to drive will be
45 suspended or denied for not less than ninety consecutive days.

2. THE VIOLATOR'S DRIVING PRIVILEGE, LICENSE, PERMIT, RIGHT TO APPLY FOR A LICENSE OR PERMIT OR NONRESIDENT OPERATING PRIVILEGE MAY BE ISSUED OR REINSTATED FOLLOWING THE PERIOD OF SUSPENSION ONLY IF THE VIOLATOR COMPLETES AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT.

C. A person who is dead, unconscious or otherwise in a condition rendering the person incapable of refusal is deemed not to have withdrawn the consent provided by subsection A of this section and the test or tests may be administered, subject to section 4-244, paragraph 33 or section 28-1381, 28-1382 or 28-1383.

D. If a person under arrest refuses to submit to the test designated by the law enforcement agency as provided in subsection A of this section:

1. The test shall not be given, except as provided in section 28-1388, subsection E or pursuant to a search warrant.

2. The law enforcement officer directing the administration of the test shall:

(a) File a certified report of the refusal with the department.

(b) On behalf of the department, serve an order of suspension on the person that is effective fifteen days after the date the order is served.

(c) Require the immediate surrender of any license or permit to drive that is issued by this state and that is in the possession or control of the person.

(d) If the license or permit is not surrendered, state the reason why it is not surrendered.

(e) If a valid license or permit is surrendered, issue a temporary driving permit that is valid for fifteen days.

(f) Forward the certified report of refusal, a copy of the completed notice of suspension, a copy of any completed temporary permit and any driver license or permit taken into possession under this section to the department within five days after the issuance of the notice of suspension.

E. The certified report is subject to the penalty for perjury as prescribed by section 28-1561 and shall state all of the following:

1. The officer's reasonable grounds to believe that the arrested person was driving or in actual physical control of a motor vehicle in this state either:

(a) While under the influence of intoxicating liquor or drugs.

(b) If the person is under twenty-one years of age, with spirituous liquor in the person's body.

2. The manner in which the person refused to submit to the test or tests.

3. That the person was advised of the consequences of refusal.

F. On receipt of the certified report of refusal and a copy of the order of suspension and on the effective date stated on the order, the department shall enter the order of suspension on its records unless a written request for a hearing as provided in this section has been filed by

1 the accused person. If the department receives only the certified report of
2 refusal, the department shall notify the person named in the report in
3 writing sent by mail that:

4 1. Fifteen days after the date of issuance of the notice the
5 department will suspend the person's license or permit, driving privilege or
6 nonresident driving privilege.

7 2. The department will provide an opportunity for a hearing if the
8 person requests a hearing in writing and the request is received by the
9 department within fifteen days after the notice is sent.

10 G. The order of suspension issued by a law enforcement officer or the
11 department under this section shall notify the person that:

12 1. The person may submit a written request for a hearing.

13 2. The request for a hearing must be received by the department within
14 fifteen days after the date of the notice or the order of suspension will
15 become final.

16 3. The affected person's license or permit to drive or right to apply
17 for a license or permit or any nonresident operating privilege will be
18 suspended for twelve months from that date or for two years from that date
19 for a second or subsequent refusal within a period of eighty-four months.

20 4. THE VIOLATOR'S DRIVING PRIVILEGE, LICENSE, PERMIT, RIGHT TO APPLY
21 FOR A LICENSE OR PERMIT OR NONRESIDENT OPERATING PRIVILEGE MAY BE ISSUED OR
22 REINSTATED FOLLOWING THE PERIOD OF SUSPENSION ONLY IF THE VIOLATOR COMPLETES
23 AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM THAT IS
24 ORDERED BY THE DEPARTMENT.

25 H. The order for suspension shall:

26 1. Be accompanied by printed forms that are ready to mail to the
27 department and that may be filled out and signed by the person to indicate
28 the person's desire for a hearing.

29 2. Advise the person that unless the person has surrendered any driver
30 license or permit issued by this state the person's hearing request will not
31 be accepted, except that the person may certify pursuant to section 28-3170
32 that the license or permit is lost or destroyed.

33 I. On the receipt of a request for a hearing, the department shall set
34 the hearing within thirty days in the county in which the person named in the
35 report resides unless the law enforcement agency filing the certified report
36 of refusal pursuant to subsection D of this section requests at the time of
37 its filing that the hearing be held in the county where the refusal occurred.

38 J. A timely request for a hearing stays the suspension until a hearing
39 is held, except that the department shall not return any surrendered license
40 or permit to the person but may issue temporary permits to drive that expire
41 no later than when the department has made its final decision. If the person
42 is a resident without a license or permit or has an expired license or
43 permit, the department may allow the person to apply for a RESTRICTED license
44 or permit. If the department determines the person is otherwise entitled to

1 the license or permit, the department shall issue and retain a RESTRICTED
2 license or permit subject to this section.

3 K. Hearings requested under this section shall be conducted in the
4 same manner and under the same conditions as provided in section 28-3306.
5 For the purposes of this section, the scope of the hearing shall include only
6 the issues of whether:

7 1. A law enforcement officer had reasonable grounds to believe that
8 the person was driving or was in actual physical control of a motor vehicle
9 in this state either:

10 (a) While under the influence of intoxicating liquor or drugs.

11 (b) If the person is under twenty-one years of age, with spirituous
12 liquor in the person's body.

13 2. The person was placed under arrest.

14 3. The person refused to submit to the test.

15 4. The person was informed of the consequences of refusal.

16 L. If the department determines at the hearing to suspend the affected
17 person's privilege to operate a motor vehicle, the suspension provided in
18 this section is effective fifteen days after giving written notice of the
19 suspension, except that the department may issue or extend a temporary
20 license that expires on the effective date of the suspension. If the person
21 is a resident without a license or permit or has an expired license or permit
22 to operate a motor vehicle in this state, the department shall deny to the
23 person the issuance of a license or permit for a period of twelve months
24 after the order of suspension becomes effective or for a period of two years
25 after the order of suspension becomes effective for a second or subsequent
26 refusal within a period of eighty-four months, AND MAY REINSTATE THE PERSON'S
27 DRIVING PRIVILEGE, LICENSE, PERMIT, RIGHT TO APPLY FOR A LICENSE OR PERMIT OR
28 NONRESIDENT OPERATING PRIVILEGE FOLLOWING THE PERIOD OF SUSPENSION ONLY IF
29 THE VIOLATOR COMPLETES AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR
30 TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT.

31 M. If the suspension order is sustained after the hearing, a motion
32 for rehearing is not required. Within thirty days after a suspension order
33 is sustained, the affected person may file a petition in the superior court
34 to review the final order of suspension or denial by the department in the
35 same manner provided in section 28-3317. The court shall hear the review of
36 the final order of suspension or denial on an expedited basis.

37 N. If the suspension or determination that there should be a denial of
38 issuance is not sustained, the ruling is not admissible in and has no effect
39 on any administrative, civil or criminal court proceeding.

40 O. If it has been determined under the procedures of this section that
41 a nonresident's privilege to operate a motor vehicle in this state has been
42 suspended, the department shall give information EITHER in writing OR BY
43 ELECTRONIC MEANS of the action taken to the motor vehicle administrator of
44 the state of the person's residence and of any state in which the person has
45 a license.

1 P. After completing not less than ninety consecutive days of the
2 period of suspension required by this section AND ANY ALCOHOL OR OTHER DRUG
3 SCREENING, EDUCATION OR TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT
4 PURSUANT TO THIS CHAPTER, a person whose driving privilege is suspended
5 pursuant to this section may apply to the department for a special ignition
6 interlock restricted driver license pursuant to section 28-1401. Unless the
7 certified ignition interlock period is extended by the department pursuant to
8 section ~~28-1402~~ 28-1461, a person who is issued a special ignition interlock
9 restricted driver license as provided in this subsection shall maintain a
10 functioning certified ignition interlock device in compliance with this
11 chapter during the remaining period of the suspension prescribed by this
12 section. This subsection does not apply to a person whose driving privilege
13 is suspended for a second or subsequent refusal within a period of
14 eighty-four months or a person who within a period of eighty-four months has
15 been convicted of a second or subsequent violation of article 3 of this
16 chapter or section 4-244, paragraph 33 or an act in another jurisdiction that
17 if committed in this state would be a violation of article 3 of this chapter
18 or section 4-244, paragraph 33.

19 Sec. 5. Section 28-1381, Arizona Revised Statutes, is amended to read:

20 ~~28-1381.~~ Driving or actual physical control while under the
21 influence; trial by jury; presumptions; admissible
22 evidence; sentencing; classification

23 A. It is unlawful for a person to drive or be in actual physical
24 control of a vehicle in this state under any of the following circumstances:

25 1. While under the influence of intoxicating liquor, any drug, a vapor
26 releasing substance containing a toxic substance or any combination of
27 liquor, drugs or vapor releasing substances if the person is impaired to the
28 slightest degree.

29 2. If the person has an alcohol concentration of 0.08 or more within
30 two hours of driving or being in actual physical control of the vehicle and
31 the alcohol concentration results from alcohol consumed either before or
32 while driving or being in actual physical control of the vehicle.

33 3. While there is any drug defined in section 13-3401 or its
34 metabolite in the person's body.

35 4. If the vehicle is a commercial motor vehicle that requires a person
36 to obtain a commercial driver license as defined in section 28-3001 and the
37 person has an alcohol concentration of 0.04 or more.

38 B. It is not a defense to a charge of a violation of subsection A,
39 paragraph 1 of this section that the person is or has been entitled to use
40 the drug under the laws of this state.

41 C. A person who is convicted of a violation of this section is guilty
42 of a class 1 misdemeanor.

43 D. A person using a drug prescribed by a medical practitioner licensed
44 pursuant to title 32, chapter 7, 11, 13 or 17 is not guilty of violating
45 subsection A, paragraph 3 of this section.

1 E. In any prosecution for a violation of this section, the state shall
2 allege, for the purpose of classification and sentencing pursuant to this
3 section, all prior convictions of violating this section, section 28-1382 or
4 section 28-1383 occurring within the past ~~thirty-six~~ EIGHTY-FOUR months,
5 unless there is an insufficient legal or factual basis to do so.

6 F. At the arraignment, the court shall:

7 1. Inform the defendant that the defendant may request a trial by jury
8 and that the request, if made, shall be granted.

9 2. DETERMINE WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD REQUIRE NO
10 ALCOHOL CONSUMPTION.

11 3. DETERMINE WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD INCLUDE
12 CONTINUOUS ALCOHOL MONITORING OR A MINIMUM OF TWICE DAILY ALCOHOL TESTING.

13 G. In a trial, action or proceeding for a violation of this section or
14 section 28-1383 other than a trial, action or proceeding involving driving or
15 being in actual physical control of a commercial vehicle, the defendant's
16 alcohol concentration within two hours of the time of driving or being in
17 actual physical control as shown by analysis of the defendant's blood, breath
18 or other bodily substance gives rise to the following presumptions:

19 1. If there was at that time 0.05 or less alcohol concentration in the
20 defendant's blood, breath or other bodily substance, it may be presumed that
21 the defendant was not under the influence of intoxicating liquor.

22 2. If there was at that time in excess of 0.05 but less than 0.08
23 alcohol concentration in the defendant's blood, breath or other bodily
24 substance, that fact shall not give rise to a presumption that the defendant
25 was or was not under the influence of intoxicating liquor, but that fact may
26 be considered with other competent evidence in determining the guilt or
27 innocence of the defendant.

28 3. If there was at that time 0.08 or more alcohol concentration in the
29 defendant's blood, breath or other bodily substance, it may be presumed that
30 the defendant was under the influence of intoxicating liquor.

31 H. Subsection G of this section does not limit the introduction of any
32 other competent evidence bearing on the question of whether or not the
33 defendant was under the influence of intoxicating liquor.

34 I. A person who is convicted of a violation of this section:

35 1. Shall be sentenced to serve not less than ten consecutive days in
36 jail and is not eligible for probation or suspension of execution of sentence
37 unless the entire sentence is served.

38 2. Shall pay a fine of not less than two hundred fifty dollars.

39 3. May be ordered by a court to perform community restitution.

40 4. Shall pay an additional assessment of five hundred dollars to be
41 deposited by the state treasurer in the prison construction and operations
42 fund established by section 41-1651. This assessment is not subject to any
43 surcharge. If the conviction occurred in the superior court or a justice
44 court, the court shall transmit the assessed monies to the county treasurer.
45 If the conviction occurred in a municipal court, the court shall transmit the

1 assessed monies to the city treasurer. The city or county treasurer shall
2 transmit the monies received to the state treasurer.

3 5. Shall pay an additional assessment of five hundred dollars to be
4 deposited by the state treasurer in the state general fund. This assessment
5 is not subject to any surcharge. If the conviction occurred in the superior
6 court or a justice court, the court shall transmit the assessed monies to the
7 county treasurer. If the conviction occurred in a municipal court, the court
8 shall transmit the assessed monies to the city treasurer. The city or county
9 treasurer shall transmit the monies received to the state treasurer.

10 6. Shall be required by the department, on report of the conviction,
11 to equip any motor vehicle the person operates with a certified ignition
12 interlock device pursuant to section 28-3319. In addition, the court may
13 order the person to equip any motor vehicle the person operates with a
14 certified ignition interlock device for more than twelve months beginning on
15 the date of reinstatement of the person's driving privilege following a
16 suspension or revocation or on the date of the department's receipt of the
17 report of conviction, whichever occurs later. The person who operates a
18 motor vehicle with a certified ignition interlock device under this paragraph
19 shall comply with article 5 of this chapter.

20 J. Notwithstanding subsection I, paragraph 1 of this section, at the
21 time of sentencing the judge may suspend all but twenty-four consecutive
22 hours of the sentence if the person completes a court OR DEPARTMENT ordered
23 alcohol or other drug screening, education or treatment program AND, IF
24 ORDERED BY THE COURT, THE PERSON DOES NOT CONSUME ALCOHOL AS DEMONSTRATED
25 THROUGH CONTINUOUS ALCOHOL MONITORING OR A MINIMUM OF TWICE DAILY ALCOHOL
26 TESTING. If the person fails to complete the court OR DEPARTMENT ordered
27 alcohol or other drug screening, education or treatment program OR VIOLATES
28 THE COURT ORDER TO NOT CONSUME ALCOHOL and has not been placed on probation,
29 the court shall issue an order to show cause to the defendant as to why the
30 remaining jail sentence should not be served.

31 K. If within a period of eighty-four months a person is convicted of a
32 second violation of this section or is convicted of a violation of this
33 section and has previously been convicted of a violation of section 28-1382
34 or 28-1383 or an act in another jurisdiction that if committed in this state
35 would be a violation of this section or section 28-1382 or 28-1383, the
36 person:

37 1. Shall be sentenced to serve not less than ninety days in jail,
38 thirty days of which shall be served consecutively, and is not eligible for
39 probation or suspension of execution of sentence unless the entire sentence
40 has been served.

41 2. Shall pay a fine of not less than five hundred dollars.

42 3. Shall be ordered by a court to perform at least thirty hours of
43 community restitution.

44 4. Shall have the person's driving privilege revoked for one year.
45 The court shall report the conviction to the department. On receipt of the

1 report, the department shall revoke the person's driving privilege and shall
 2 require the person to equip any motor vehicle the person operates with a
 3 certified ignition interlock device pursuant to section 28-3319. In
 4 addition, the court may order the person to equip any motor vehicle the
 5 person operates with a certified ignition interlock device for more than
 6 twelve months beginning on the date of reinstatement of the person's driving
 7 privilege following a suspension or revocation or on the date of the
 8 department's receipt of the report of conviction, whichever occurs later.
 9 The person who operates a motor vehicle with a certified ignition interlock
 10 device under this paragraph shall comply with article 5 of this chapter.

11 5. Shall pay an additional assessment of one thousand two hundred
 12 fifty dollars to be deposited by the state treasurer in the prison
 13 construction and operations fund established by section 41-1651. This
 14 assessment is not subject to any surcharge. If the conviction occurred in
 15 the superior court or a justice court, the court shall transmit the assessed
 16 monies to the county treasurer. If the conviction occurred in a municipal
 17 court, the court shall transmit the assessed monies to the city treasurer.
 18 The city or county treasurer shall transmit the monies received to the state
 19 treasurer.

20 6. Shall pay an additional assessment of one thousand two hundred
 21 fifty dollars to be deposited by the state treasurer in the state general
 22 fund. This assessment is not subject to any surcharge. If the conviction
 23 occurred in the superior court or a justice court, the court shall transmit
 24 the assessed monies to the county treasurer. If the conviction occurred in a
 25 municipal court, the court shall transmit the assessed monies to the city
 26 treasurer. The city or county treasurer shall transmit the monies received
 27 to the state treasurer.

28 L. Notwithstanding subsection K, paragraph 1 of this section, at the
 29 time of sentencing, the judge may suspend all but thirty days of the sentence
 30 if the person completes a court OR DEPARTMENT ordered alcohol or other drug
 31 screening, education or treatment program AND, IF ORDERED BY THE COURT, THE
 32 PERSON DOES NOT CONSUME ALCOHOL AS DEMONSTRATED THROUGH CONTINUOUS ALCOHOL
 33 MONITORING OR A MINIMUM OF TWICE DAILY ALCOHOL TESTING. If the person fails
 34 to complete the court OR DEPARTMENT ordered alcohol or other drug screening,
 35 education or treatment program OR VIOLATES THE COURT ORDER TO NOT CONSUME
 36 ALCOHOL and has not been placed on probation, the court shall issue an order
 37 to show cause as to why the remaining jail sentence should not be served.

38 M. In applying the eighty-four month provision of subsection K of this
 39 section, the dates of the commission of the offense shall be the determining
 40 factor, irrespective of the sequence in which the offenses were committed.

41 N. A second violation for which a conviction occurs as provided in
 42 this section shall not include a conviction for an offense arising out of the
 43 same series of acts.

1 Sec. 6. Section 28-1382, Arizona Revised Statutes, as amended by Laws
2 2007, chapter 219, section 2, is amended to read:

3 28-1382. Driving or actual physical control while under the
4 extreme influence of intoxicating liquor; trial by
5 jury; sentencing; classification

6 A. It is unlawful for a person to drive or be in actual physical
7 control of a vehicle in this state if the person has an alcohol concentration
8 ~~of 0.15 or more~~ AS FOLLOWS within two hours of driving or being in actual
9 physical control of the vehicle and the alcohol concentration results from
10 alcohol consumed either before or while driving or being in actual physical
11 control of the vehicle:

12 1. 0.15 OR MORE BUT LESS THAN 0.20.

13 2. 0.20 OR MORE.

14 B. A person who is convicted of a violation of this section is guilty
15 of driving or being in actual physical control of a vehicle while under the
16 extreme influence of intoxicating liquor.

17 C. At the arraignment, the court shall:

18 1. Inform the defendant that the defendant may request a trial by jury
19 and that the request, if made, shall be granted.

20 2. DETERMINE WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD REQUIRE NO
21 ALCOHOL CONSUMPTION.

22 3. DETERMINE WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD INCLUDE
23 CONTINUOUS ALCOHOL MONITORING OR A MINIMUM OF TWICE DAILY ALCOHOL TESTING.

24 D. A person who is convicted of a violation of this section:

25 1. ~~Except as otherwise provided in this paragraph,~~ Shall be sentenced
26 to serve not less than thirty consecutive days in jail and is not eligible
27 for probation or suspension of execution of sentence unless the entire
28 sentence is served IF THE PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION A,
29 PARAGRAPH 1 OF THIS SECTION. A person who ~~has an alcohol concentration of~~
30 ~~0.20 or more~~ IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS
31 SECTION shall be sentenced to serve not less than forty-five consecutive days
32 in jail and is not eligible for probation or suspension of execution of
33 sentence unless the entire sentence is served.

34 2. Shall pay a fine of not less than two hundred fifty dollars, except
35 that a person who ~~has an alcohol concentration of 0.20 or more~~ IS CONVICTED
36 OF A VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS SECTION shall pay a fine
37 of not less than five hundred dollars. The fine prescribed in this paragraph
38 and any assessments, restitution and incarceration costs shall be paid before
39 the assessment prescribed in paragraph 3 of this subsection.

40 3. Shall pay an additional assessment of two hundred fifty dollars. If
41 the conviction occurred in the superior court or a justice court, the court
42 shall transmit the monies received pursuant to this paragraph to the county
43 treasurer. If the conviction occurred in a municipal court, the court shall
44 transmit the monies received pursuant to this paragraph to the city
45 treasurer. The city or county treasurer shall transmit the monies received

1 to the state treasurer. The state treasurer shall deposit the monies
2 received in the driving under the influence abatement fund established by
3 section 28-1304.

4 4. May be ordered by a court to perform community restitution.

5 5. Shall be required by the department, on receipt of the report of
6 conviction, to equip any motor vehicle the person operates with a certified
7 ignition interlock device pursuant to section 28-3319. In addition, the
8 court may order the person to equip any motor vehicle the person operates
9 with a certified ignition interlock device for more than twelve months
10 beginning on the date of reinstatement of the person's driving privilege
11 following a suspension or revocation or on the date of the department's
12 receipt of the report of conviction, whichever occurs later. The person who
13 operates a motor vehicle with a certified ignition interlock device under
14 this paragraph shall comply with article 5 of this chapter.

15 6. Shall pay an additional assessment of one thousand dollars to be
16 deposited by the state treasurer in the prison construction and operations
17 fund established by section 41-1651. This assessment is not subject to any
18 surcharge. If the conviction occurred in the superior court or a justice
19 court, the court shall transmit the assessed monies to the county treasurer.
20 If the conviction occurred in a municipal court, the court shall transmit the
21 assessed monies to the city treasurer. The city or county treasurer shall
22 transmit the monies received to the state treasurer.

23 7. Shall pay an additional assessment of one thousand dollars to be
24 deposited by the state treasurer in the state general fund. This assessment
25 is not subject to any surcharge. If the conviction occurred in the superior
26 court or a justice court, the court shall transmit the assessed monies to the
27 county treasurer. If the conviction occurred in a municipal court, the court
28 shall transmit the assessed monies to the city treasurer. The city or county
29 treasurer shall transmit the monies received to the state treasurer.

30 E. ~~Notwithstanding~~ FOR A CONVICTION PURSUANT TO subsection D,
31 ~~paragraph 1 of this section, at the time of sentencing if the person has an~~
32 ~~alcohol concentration of less than 0.20 the judge may suspend all but ten~~
33 ~~days of the sentence if the person completes a court ordered alcohol or other~~
34 ~~drug screening, education or treatment program~~ ORDER THE PERSON TO NOT
35 CONSUME ALCOHOL AS DEMONSTRATED THROUGH CONTINUOUS ALCOHOL MONITORING OR A
36 MINIMUM OF TWICE DAILY ALCOHOL TESTING. ~~If the person fails to complete the~~
37 ~~court ordered alcohol or other drug screening, education or treatment program~~
38 ~~and has not been placed on probation, the court shall issue an order to show~~
39 ~~cause to the defendant as to why the remaining jail sentence should not be~~
40 ~~served.~~

41 F. If within a period of eighty-four months a person is convicted of a
42 second violation of this section or is convicted of a violation of this
43 section and has previously been convicted of a violation of section 28-1381
44 or 28-1383 or an act in another jurisdiction that if committed in this state

1 would be a violation of this section or section 28-1381 or 28-1383, the
2 person:

3 1. ~~Except as otherwise provided in this paragraph,~~ Shall be sentenced
4 to serve not less than one hundred twenty days in jail, sixty days of which
5 shall be served consecutively, and is not eligible for probation or
6 suspension of execution of sentence unless the entire sentence has been
7 served IF THE PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 1
8 OF THIS SECTION. A person who ~~has an alcohol concentration of 0.20 or more~~
9 IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS SECTION
10 shall be sentenced to serve not less than one hundred eighty days in jail,
11 ninety of which shall be served consecutively, and is not eligible for
12 probation or suspension of execution of sentence unless the entire sentence
13 has been served.

14 2. Shall pay a fine of not less than five hundred dollars, except that
15 a person who ~~has an alcohol concentration of 0.20 or more~~ IS CONVICTED OF A
16 VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS SECTION shall pay a fine of
17 not less than one thousand dollars. The fine prescribed in this paragraph
18 and any assessments, restitution and incarceration costs shall be paid before
19 the assessment prescribed in paragraph 3 of this subsection.

20 3. Shall pay an additional assessment of two hundred fifty
21 dollars. If the conviction occurred in the superior court or a justice
22 court, the court shall transmit the monies received pursuant to this
23 paragraph to the county treasurer. If the conviction occurred in a municipal
24 court, the court shall transmit the monies received pursuant to this
25 paragraph to the city treasurer. The city or county treasurer shall transmit
26 the monies received to the state treasurer. The state treasurer shall
27 deposit the monies received in the driving under the influence abatement fund
28 established by section 28-1304.

29 4. Shall be ordered by a court to perform at least thirty hours of
30 community restitution.

31 5. Shall have the person's driving privilege revoked for at least one
32 year. The court shall report the conviction to the department. On receipt
33 of the report, the department shall revoke the person's driving privilege and
34 shall require the person to equip any motor vehicle the person operates with
35 a certified ignition interlock device pursuant to section 28-3319. In
36 addition, the court may order the person to equip any motor vehicle the
37 person operates with a certified ignition interlock device for more than
38 twelve months beginning on the date of reinstatement of the person's driving
39 privilege following a suspension or revocation or on the date of the
40 department's receipt of the report of conviction, whichever is later. The
41 person who operates a motor vehicle with a certified ignition interlock
42 device under this paragraph shall comply with article 5 of this chapter.

43 6. Shall pay an additional assessment of one thousand two hundred
44 fifty dollars to be deposited by the state treasurer in the prison
45 construction and operations fund established by section 41-1651. This

1 assessment is not subject to any surcharge. If the conviction occurred in
2 the superior court or a justice court, the court shall transmit the assessed
3 monies to the county treasurer. If the conviction occurred in a municipal
4 court, the court shall transmit the assessed monies to the city treasurer.
5 The city or county treasurer shall transmit the monies received to the state
6 treasurer.

7 7. Shall pay an additional assessment of one thousand two hundred
8 fifty dollars to be deposited by the state treasurer in the state general
9 fund. This assessment is not subject to any surcharge. If the conviction
10 occurred in the superior court or a justice court, the court shall transmit
11 the assessed monies to the county treasurer. If the conviction occurred in a
12 municipal court, the court shall transmit the assessed monies to the city
13 treasurer. The city or county treasurer shall transmit the monies received
14 to the state treasurer.

15 ~~G. Notwithstanding subsection F, paragraph 1 of this section, at the~~
16 ~~time of sentencing, if the person has an alcohol concentration of less than~~
17 ~~0.20, the judge may suspend all but sixty days of the sentence if the person~~
18 ~~completes a court ordered alcohol or other drug screening, education or~~
19 ~~treatment program. If the person fails to complete the court ordered alcohol~~
20 ~~or other drug screening, education or treatment program and has not been~~
21 ~~placed on probation, the court shall issue an order to show cause as to why~~
22 ~~the remaining jail sentence should not be served.~~

23 G. FOR A CONVICTION PURSUANT TO SUBSECTION F OF THIS SECTION, AT THE
24 TIME OF SENTENCING, THE JUDGE MAY ORDER THE PERSON TO NOT CONSUME ALCOHOL AS
25 DEMONSTRATED THROUGH CONTINUOUS ALCOHOL MONITORING OR A MINIMUM OF TWICE
26 DAILY ALCOHOL TESTING.

27 H. In applying the eighty-four month provision of subsection F of this
28 section, the dates of the commission of the offense shall be the determining
29 factor, irrespective of the sequence in which the offenses were committed.

30 I. A second violation for which a conviction occurs as provided in
31 this section shall not include a conviction for an offense arising out of the
32 same series of acts.

33 J. A person who is convicted of a violation of this section is guilty
34 of a class 1 misdemeanor.

35 Sec. 7. Repeal

36 Section 28-1382, Arizona Revised Statutes, as amended by Laws 2007,
37 chapter 195, section 3, is repealed.

38 Sec. 8. Section 28-1383, Arizona Revised Statutes, is amended to read:

39 28-1383. Aggravated driving or actual physical control while
40 under the influence; violation; classification;
41 definition

42 A. A person is guilty of aggravated driving or actual physical control
43 while under the influence of intoxicating liquor or drugs if the person does
44 any of the following:

1 1. Commits a violation of section 28-1381, section 28-1382 or this
2 section while the person's driver license or privilege to drive is suspended,
3 canceled, revoked or refused or while a restriction is placed on the person's
4 driver license or privilege to drive as a result of violating section 28-1381
5 or 28-1382 or under section 28-1385.

6 2. Within a period of eighty-four months commits a third or subsequent
7 violation of section 28-1381, section 28-1382 or this section or is convicted
8 of a violation of section 28-1381, section 28-1382 or this section and has
9 previously been convicted of any combination of convictions of section
10 28-1381, section 28-1382 or this section or acts in another jurisdiction that
11 if committed in this state would be a violation of section 28-1381, section
12 28-1382 or this section.

13 3. While a person under fifteen years of age is in the vehicle,
14 commits a violation of either:

15 (a) Section 28-1381.

16 (b) Section 28-1382.

17 4. While the person is ordered by the court or required pursuant to
18 section 28-3319 by the department to equip any motor vehicle the person
19 operates with a certified ignition interlock device, does either of the
20 following:

21 (a) While under arrest refuses to submit to any test chosen by a law
22 enforcement officer pursuant to section 28-1321, subsection A.

23 (b) Commits a violation of section 28-1381, section 28-1382 or this
24 section.

25 B. The dates of the commission of the offenses are the determining
26 factor in applying the eighty-four month provision provided in subsection A,
27 paragraph 2 of this section regardless of the sequence in which the offenses
28 were committed. For the purposes of this section, a third or subsequent
29 violation for which a conviction occurs does not include a conviction for an
30 offense arising out of the same series of acts. The time that a probationer
31 is found to be on absconder status or the time that a person is incarcerated
32 in any state, federal, county or city jail or correctional facility is
33 excluded when determining the eighty-four month period provided in subsection
34 A, paragraph 2 and subsection ~~E~~ F of this section.

35 C. The notice to a person of the suspension, cancellation, revocation
36 or refusal of a driver license or privilege to drive is effective as provided
37 in section 28-3318 or pursuant to the laws of the state issuing the license.

38 D. AT THE INITIAL APPEARANCE, THE COURT SHALL DETERMINE:

39 1. WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD INCLUDE NO ALCOHOL
40 CONSUMPTION.

41 2. WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD INCLUDE CONTINUOUS
42 ALCOHOL MONITORING OR A MINIMUM OF TWICE DAILY ALCOHOL TESTING.

43 ~~D~~ E. A person is not eligible for probation, pardon, commutation or
44 suspension of sentence or release on any other basis until the person has

1 served not less than four months in prison if the person is convicted under
2 either of the following:

3 1. Subsection A, paragraph 1 of this section.

4 2. Subsection A, paragraph 2 of this section and within an eighty-four
5 month period has been convicted of two prior violations of section 28-1381,
6 section 28-1382 or this section, or any combination of those sections, or
7 acts in another jurisdiction that if committed in this state would be a
8 violation of section 28-1381, section 28-1382 or this section.

9 ~~F.~~ F. A person who is convicted under subsection A, paragraph 2 of
10 this section and who within an eighty-four month period has been convicted of
11 three or more prior violations of section 28-1381, section 28-1382 or this
12 section, or any combination of those sections, or acts in another
13 jurisdiction that if committed in this state would be a violation of section
14 28-1381, section 28-1382 or this section is not eligible for probation,
15 pardon, commutation or suspension of sentence or release on any other basis
16 until the person has served not less than eight months in prison.

17 ~~F.~~ G. A person who is convicted under subsection A, paragraph 3,
18 subdivision (a) of this section shall serve at least the minimum term of
19 incarceration required pursuant to section 28-1381.

20 ~~G.~~ H. A person who is convicted under subsection A, paragraph 3,
21 subdivision (b) of this section shall serve at least the minimum term of
22 incarceration required pursuant to section 28-1382.

23 ~~H.~~ I. IN ADDITION TO ANY ALCOHOL OR OTHER DRUG SCREENING, EDUCATION
24 OR TREATMENT PROGRAM ORDERED BY THE DEPARTMENT PURSUANT TO SECTION 28-1385, a
25 person who is convicted of a violation of this section shall attend and
26 complete alcohol or other drug screening, education or treatment from an
27 approved facility IF ORDERED BY THE COURT. If the person fails to comply
28 with this subsection and is placed on probation, in addition to the
29 provisions of section 13-901 the court may order that the person be
30 incarcerated as a term of probation as follows:

31 1. For a person sentenced pursuant to subsection ~~D~~ E of this section,
32 for an individual period of not more than four months and a total period of
33 not more than one year.

34 2. For a person sentenced pursuant to subsection ~~E~~ F of this section,
35 for an individual period of not more than eight months and a total period of
36 not more than two years.

37 ~~I.~~ J. The time that a person spends in custody pursuant to subsection
38 ~~H~~ I of this section shall not be counted towards the sentence imposed if the
39 person's probation is revoked and the person is sentenced to prison after
40 revocation of probation.

41 ~~J.~~ K. On a conviction for a violation of this section, the court:

42 1. Shall report the conviction to the department. On receipt of the
43 report, the department shall revoke the driving privilege of the person. The
44 department shall not issue the person a new driver license within three years
45 of the date of the conviction and, for a conviction of a violation of

1 subsection A, paragraph 1, 2 or 4 or paragraph 3, subdivision (b) of this
2 section, shall require the person to equip any motor vehicle the person
3 operates with a certified ignition interlock device pursuant to section
4 28-3319. In addition, the court may order the person to equip any motor
5 vehicle the person operates with a certified ignition interlock device for
6 more than twelve months beginning on the date of reinstatement of the
7 person's driving privilege following a suspension or revocation or on the
8 date of the department's receipt of the report of conviction, whichever
9 occurs later. The person who operates a motor vehicle with a certified
10 ignition interlock device under this paragraph shall comply with article 5 of
11 this chapter.

12 2. In addition to any other penalty prescribed by law, shall order the
13 person to pay an additional assessment of two hundred fifty dollars. If the
14 conviction occurred in the superior court or a justice court, the court shall
15 transmit the monies received pursuant to this paragraph to the county
16 treasurer. If the conviction occurred in a municipal court, the court shall
17 transmit the monies received pursuant to this paragraph to the city
18 treasurer. The city or county treasurer shall transmit the monies received
19 to the state treasurer. The state treasurer shall deposit the monies
20 received in the driving under the influence abatement fund established by
21 section 28-1304. Any fine imposed for a violation of this section and any
22 assessments, restitution and incarceration costs shall be paid before the
23 assessment prescribed in this paragraph.

24 3. Shall order the person to pay a fine of not less than seven hundred
25 fifty dollars.

26 4. In addition to any other penalty prescribed by law, shall order the
27 person to pay an additional assessment of one thousand five hundred dollars
28 to be deposited by the state treasurer in the prison construction and
29 operations fund established by section 41-1651. This assessment is not
30 subject to any surcharge. If the conviction occurred in the superior court
31 or a justice court, the court shall transmit the assessed monies to the
32 county treasurer. If the conviction occurred in a municipal court, the court
33 shall transmit the assessed monies to the city treasurer. The city or county
34 treasurer shall transmit the monies received to the state treasurer.

35 5. In addition to any other penalty prescribed by law, shall order the
36 person to pay an additional assessment of one thousand five hundred dollars
37 to be deposited by the state treasurer in the state general fund. This
38 assessment is not subject to any surcharge. If the conviction occurred in
39 the superior court or a justice court, the court shall transmit the assessed
40 monies to the county treasurer. If the conviction occurred in a municipal
41 court, the court shall transmit the assessed monies to the city treasurer.
42 The city or county treasurer shall transmit the monies received to the state
43 treasurer.

44 ~~K.~~ L. After completing the period of suspension required by section
45 28-1385, a person whose driving privilege is revoked for a violation of

1 subsection A, paragraph 3 of this section may apply to the department for a
2 special ignition interlock restricted driver license pursuant to section
3 28-1401.

4 ~~M.~~ M. Aggravated driving or actual physical control while under the
5 influence of intoxicating liquor or drugs committed under:

6 1. Subsection A, paragraph 1 or 2 or paragraph 4, subdivision (b) of
7 this section is a class 4 felony.

8 2. Subsection A, paragraph 3 or paragraph 4, subdivision (a) of this
9 section is a class 6 felony.

10 ~~M.~~ N. For the purposes of this section, "suspension, cancellation,
11 revocation or refusal" means any suspension, cancellation, revocation or
12 refusal.

13 Sec. 9. Section 28-1385, Arizona Revised Statutes, is amended to read:

14 ~~28-1385.~~ Administrative license suspension for driving under
15 the influence; report; hearing; summary review;
16 ignition interlock device requirement

17 A. A law enforcement officer shall forward to the department a
18 certified report as prescribed in subsection B of this section, subject to
19 the penalty for perjury prescribed by section 28-1561, if both of the
20 following occur:

21 1. The officer arrests a person for a violation of section 4-244,
22 paragraph 33, section 28-1381, section 28-1382 or section 28-1383.

23 2. The person submits to a blood or breath alcohol test permitted by
24 section 28-1321, the results of which indicate either:

25 (a) 0.08 or more alcohol concentration in the person's blood or
26 breath.

27 (b) 0.04 or more alcohol concentration in the person's blood or breath
28 if the person was driving or in actual physical control of a commercial motor
29 vehicle.

30 B. The officer shall make the certified report required by subsection
31 A of this section on forms supplied or approved by the department. The
32 report shall state information that is relevant to the enforcement action,
33 including:

34 1. Information that adequately identifies the arrested person.

35 2. A statement of the officer's grounds for belief that the person was
36 driving or in actual physical control of a motor vehicle in violation of
37 section 4-244, paragraph 33, section 28-1381, ~~or~~ section 28-1382 OR SECTION
38 28-1383.

39 3. A statement that the person was arrested for a violation of section
40 4-244, paragraph 33, section 28-1381, section 28-1382 or section 28-1383.

41 4. A report of the results of the chemical test that was administered.

42 C. The officer shall also serve an order of suspension on the person
43 on behalf of the department. The order of suspension:

44 1. Is effective fifteen days after the date it is served.

1 2. Shall require the immediate surrender of any license or permit to
2 drive that is issued by this state and that is in the possession or control
3 of the person.

4 3. Shall contain information concerning the right to a summary review
5 and hearing, including information concerning the hearing as required by
6 section 28-1321, subsections G and H.

7 4. Shall be accompanied by printed forms ready to mail to the
8 department that the person may fill out and sign to indicate the person's
9 desire for a hearing.

10 5. Shall be entered on the department's records on receipt of the
11 report by the officer and a copy of the order of suspension.

12 D. If the license or permit is not surrendered pursuant to subsection
13 C of this section, the officer shall state the reason for the nonsurrender.
14 If a valid license or permit is surrendered, the officer shall issue a
15 temporary driving permit that is valid for fifteen days. The officer shall
16 forward a copy of the completed order of suspension, a copy of any completed
17 temporary permit and any driver license or permit taken into possession under
18 this section to the department within five days after the issuance of the
19 order of suspension along with the report.

20 E. The department shall suspend the affected person's license or
21 permit to drive or right to apply for a license or permit or any nonresident
22 operating privilege for not less than ninety consecutive days from that date.
23 IF THE PERSON IS OTHERWISE QUALIFIED, THE DEPARTMENT MAY REINSTATE THE
24 PERSON'S DRIVING PRIVILEGE, LICENSE, PERMIT, RIGHT TO APPLY FOR A LICENSE OR
25 PERMIT OR NONRESIDENT OPERATING PRIVILEGE FOLLOWING THE PERIOD OF SUSPENSION
26 ONLY IF THE VIOLATOR COMPLETES AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION
27 OR TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT.

28 F. Notwithstanding subsections A through E of this section, the
29 department shall suspend the driving privileges of the person described in
30 subsection A of this section for not less than thirty consecutive days and
31 shall restrict the driving privileges of the person for not less than sixty
32 consecutive additional days to travel between the person's place of
33 employment and residence and during specified periods of time while at
34 employment, to travel between the person's place of residence and the
35 person's secondary or postsecondary school, according to the person's
36 employment or educational schedule, to travel between the person's place of
37 residence and the office of the person's probation officer for scheduled
38 appointments or to travel between the person's place of residence and a
39 screening, education or treatment facility for scheduled appointments if the
40 person:

41 1. Did not cause serious physical injury as defined in section 13-105
42 to another person during the course of conduct out of which the current
43 action arose.

44 2. Has not been convicted of a violation of section 4-244, PARAGRAPH
45 33, SECTION 28-1381, SECTION 28-1382 or SECTION 28-1383 within eighty-four

1 months of the date of commission of the acts out of which the current action
2 arose. The dates of commission of the acts are the determining factor in
3 applying the eighty-four month provision.

4 3. Has not had the person's privilege to drive suspended pursuant to
5 this section or section 28-1321 within eighty-four months of the date of
6 commission of the acts out of which the current action arose.

7 4. PROVIDES SATISFACTORY EVIDENCE TO THE DEPARTMENT OF THE PERSON'S
8 COMPLETION OR PARTICIPATION IN AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION
9 OR TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT. IF THE PERSON DOES
10 NOT COMPLETE AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT
11 PROGRAM OR IS NOT SATISFACTORILY PARTICIPATING IN A PROGRAM APPROVED BY THE
12 DEPARTMENT, THE DEPARTMENT MAY EITHER IMPOSE A NINETY DAY SUSPENSION PURSUANT
13 TO THIS SECTION OR ALLOW THE PERSON TO SUBMIT AN AFFIDAVIT AT THE TIME OF THE
14 HEARING THAT THE PERSON WILL PROVIDE SATISFACTORY EVIDENCE TO THE DEPARTMENT
15 THAT THE PERSON EITHER HAS COMPLETED OR IS PARTICIPATING IN AN ALCOHOL OR
16 OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM BEFORE THE SIXTY DAY
17 RESTRICTED LICENSE PERIOD BEGINS.

18 G. If the department receives only the report of the results of the
19 blood or breath alcohol test and the results indicate 0.08 or more alcohol
20 concentration in the person's blood or breath, or show a blood or breath
21 alcohol concentration of 0.04 or more and the person was driving or in actual
22 physical control of a commercial motor vehicle, the department shall notify
23 the person named in the report in writing sent by mail that fifteen days
24 after the date of issuance of the notice the department will suspend the
25 person's license or permit, driving privilege or nonresident driving
26 privilege. The notice shall also state that the department will provide an
27 opportunity for a hearing and administrative review if the person requests a
28 hearing or review in writing and the request is received by the department
29 within fifteen days after the notice is sent.

30 H. A timely request for a hearing stays the suspension until a hearing
31 is held, except that the department shall not return any surrendered license
32 or permit to the person but may issue temporary permits to drive that expire
33 no later than when the department has made its final decision. If the person
34 is a resident without a license or permit or has an expired license or
35 permit, the department may allow the person to apply for a RESTRICTED license
36 or permit. If the department determines the person is otherwise entitled to
37 the RESTRICTED license or permit, the department shall issue, but retain, the
38 license or permit, subject to this section. All hearings requested under
39 this section shall be conducted in the same manner and under the same
40 conditions as provided in section 28-3306.

41 I. For the purposes of this section, the scope of the hearing shall
42 include only the following issues:

43 1. Whether the officer had reasonable grounds to believe the person
44 was driving or was in actual physical control of a motor vehicle while under
45 the influence of intoxicating liquor.

1 2. Whether the person was placed under arrest for a violation of
2 section 4-244, paragraph 33, section 28-1381, section 28-1382 or section
3 28-1383.

4 3. Whether a test was taken, the results of which indicated the
5 alcohol concentration in the person's blood or breath at the time the test
6 was administered of either:

7 (a) 0.08 or more.

8 (b) 0.04 or more if the person was driving or in actual physical
9 control of a commercial motor vehicle.

10 4. Whether the testing method used was valid and reliable.

11 5. Whether the test results were accurately evaluated.

12 J. The results of the blood or breath alcohol test shall be admitted
13 on establishing the requirements in section 28-1323 or 28-1326.

14 K. If the department determines at the hearing to suspend the affected
15 person's privilege to operate a motor vehicle, the suspension provided in
16 this section is effective fifteen days after giving written notice of the
17 suspension, except that the department may issue or extend a temporary
18 license that expires on the effective date of the suspension. If the person
19 is a resident without a license or permit or has an expired license or permit
20 to operate a motor vehicle in this state, the department shall deny the
21 issuance of a license or permit to the person for not less than ninety
22 consecutive days. THE DEPARTMENT MAY REINSTATE THE PERSON'S DRIVING
23 PRIVILEGE, LICENSE, PERMIT, RIGHT TO APPLY FOR A LICENSE OR PERMIT OR
24 NONRESIDENT OPERATING PRIVILEGE FOLLOWING THE PERIOD OF SUSPENSION ONLY IF
25 THE VIOLATOR COMPLETES AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR
26 TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT.

27 L. A person may apply for a summary review of an order issued pursuant
28 to this section instead of a hearing at any time before the effective date of
29 the order. The person shall submit the application in writing to any
30 department driver license examining office together with any written
31 explanation as to why the department should not suspend the driving
32 privilege. The agent of the department receiving the notice shall issue to
33 the person an additional driving permit that expires twenty days from the
34 date the request is received. The department shall review all reports
35 submitted by the officer and any written explanation submitted by the person
36 and shall determine if the order of suspension should be sustained or
37 cancelled. The department shall not hold a hearing, and the review is not
38 subject to title 41, chapter 6. The department shall notify the person of
39 its decision before the temporary driving permit expires.

40 M. If the suspension or determination that there should be a denial of
41 issuance is not sustained after a hearing or review, the ruling is not
42 admissible in and does not have any effect on any civil or criminal court
43 proceeding.

44 N. If it has been determined under the procedures of this section that
45 a nonresident's privilege to operate a motor vehicle in this state has been

1 suspended, the department shall give information EITHER in writing OR BY
2 ELECTRONIC MEANS of the action taken to the motor vehicle administrator of
3 the state of the person's residence and of any state in which the person has
4 a license.

5 Sec. 10. Section 28-1387, Arizona Revised Statutes, is amended to
6 read:

7 28-1387. Prior convictions; alcohol or other drug screening,
8 education and treatment; license suspension;
9 supervised probation; civil liability; procedures

10 A. The court shall allow the allegation of a prior conviction or any
11 other pending charge of a violation of section 28-1381, 28-1382 or 28-1383 or
12 an act in another jurisdiction that if committed in this state would be a
13 violation of section 28-1381, 28-1382 or 28-1383 filed twenty or more days
14 before the date the case is actually tried and may allow the allegation of a
15 prior conviction or any other pending charge of a violation of section
16 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if
17 committed in this state would be a violation of section 28-1381, 28-1382 or
18 28-1383 filed at any time before the date the case is actually tried if this
19 state makes available to the defendant when the allegation is filed a copy of
20 any information obtained concerning the prior conviction or other pending
21 charge. Any conviction may be used to enhance another conviction
22 irrespective of the dates on which the offenses occurred within the
23 eighty-four month provision. For the purposes of this article, an order of a
24 juvenile court adjudicating a person delinquent is equivalent to a
25 conviction.

26 B. In addition to any other penalties prescribed by law, the judge
27 shall order a person who is convicted of a violation of section 28-1381, ~~or~~
28 28-1382 OR 28-1383 to complete alcohol or other drug screening that is
29 provided by a facility approved by the department of health services or a
30 probation department. If a judge determines that the person requires further
31 alcohol or other drug education or treatment, the person may be required
32 pursuant to court order to obtain alcohol or other drug education or
33 treatment under the court's supervision from an approved facility. The judge
34 may review an education or treatment determination at the request of the
35 state, the defendant or the probation officer or on the judge's initiative.
36 The person shall pay the costs of the screening, education or treatment
37 unless, after considering the person's ability to pay all or part of the
38 costs, the court waives all or part of the costs. If a person is referred to
39 a screening, education or treatment facility, the facility shall report to
40 the court whether the person has successfully completed the screening,
41 education or treatment program. THE COURT MAY ACCEPT EVIDENCE OF A PERSON'S
42 COMPLETION OF AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT
43 PROGRAM ORDERED BY THE DEPARTMENT PURSUANT TO SECTION 28-1445 AS SUFFICIENT
44 TO MEET THE REQUIREMENTS OF THIS SECTION OR SECTION 28-1381, 28-1382 OR
45 28-1383 OR MAY ORDER THE PERSON TO COMPLETE ADDITIONAL ALCOHOL OR OTHER DRUG

1 SCREENING, EDUCATION OR TREATMENT PROGRAMS. IF A PERSON HAS PREVIOUSLY BEEN
2 ORDERED TO COMPLETE AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR
3 TREATMENT PROGRAM PURSUANT TO THIS SECTION, THE JUDGE SHALL ORDER THE PERSON
4 TO COMPLETE AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT
5 PROGRAM UNLESS THE COURT DETERMINES THAT ALTERNATIVE SANCTIONS ARE MORE
6 APPROPRIATE.

7 C. After a person who is sentenced pursuant to section 28-1381,
8 subsection I has served twenty-four consecutive hours in jail or after a
9 person who is sentenced pursuant to section 28-1381, subsection K or section
10 28-1382, subsection D or F has served forty-eight consecutive hours in jail
11 and after the court receives confirmation that the person is employed or is a
12 student, the court may provide in the sentence that the defendant, if the
13 defendant is employed or is a student and can continue the defendant's
14 employment or schooling, may continue the employment or schooling for not
15 more than twelve hours a day nor more than five days a week. The person
16 shall spend the remaining day, days or parts of days in jail until the
17 sentence is served and shall be allowed out of jail only long enough to
18 complete the actual hours of employment or schooling.

19 D. Unless the license of a person convicted under section 28-1381 or
20 28-1382 has been or is suspended pursuant to section 28-1321 or 28-1385, the
21 department on receipt of the abstract of conviction of a violation of section
22 28-1381 or 28-1382 shall suspend the license of the affected person for not
23 less than ninety consecutive days.

24 E. When the department receives notification that the person meets the
25 criteria provided in section 28-1385, subsection F, the department shall
26 suspend the driving privileges of the person for not less than thirty
27 consecutive days and shall restrict the driving privileges of the person for
28 not less than sixty consecutive additional days to travel between any of the
29 following:

30 1. The person's place of employment and residence and during specified
31 periods of time while at employment.

32 2. The person's place of residence and the person's secondary or
33 postsecondary school, according to the person's employment or educational
34 schedule.

35 3. The person's place of residence and a screening, education or
36 treatment facility for scheduled appointments.

37 4. The person's place of residence and the office of the person's
38 probation officer for scheduled appointments.

39 F. If a person is placed on probation for violating section 28-1381 or
40 28-1382, the probation shall be supervised unless the court finds that
41 supervised probation is not necessary or the court does not have supervisory
42 probation services.

43 G. Any political subdivision processing or using the services of a
44 person ordered to perform community restitution pursuant to section 28-1381
45 or 28-1382 does not incur any civil liability to the person ordered to

1 perform community restitution as a result of these activities unless the
2 political subdivision or its agent or employee acts with gross negligence.

3 H. Except for another violation of this article, the state shall not
4 dismiss a charge of violating any provision of this article unless there is
5 an insufficient legal or factual basis to pursue that charge.

6 Sec. 11. Section 28-1401, Arizona Revised Statutes, is amended to
7 read:

8 28-1401. Special ignition interlock restricted driver licenses;
9 application fee

10 A. A person whose class D or class G license has been suspended or
11 revoked for a first offense of section 28-1321 or section 28-1383, subsection
12 A, paragraph 3, ~~may~~ may apply to the department for a special ignition interlock
13 restricted driver license that allows a person to operate a motor vehicle
14 during the period of suspension or revocation subject to the restrictions
15 prescribed in section 28-1402 and the certified ignition interlock device
16 requirements prescribed in article 5 of this chapter if the person's
17 privilege to operate a motor vehicle has been suspended or revoked due to an
18 alcohol related offense pursuant to either of the following:

19 1. Section 28-1321, if the person meets the criteria of section
20 28-1321, subsection P.

21 2. Section 28-1383, if the person meets the criteria of section
22 28-1383, subsection ~~K~~ L and the person presents evidence that is
23 satisfactory to the director that shows that the person has completed
24 screening and treatment.

25 B. An applicant for a special ignition interlock restricted driver
26 license shall pay an application fee in an amount to be determined by the
27 director.

28 C. The department shall issue a special ignition interlock restricted
29 driver license during the period of a court ordered restriction pursuant to
30 sections 28-3320 and 28-3322 subject to the restrictions prescribed in
31 section 28-1402 and the certified ignition interlock requirements prescribed
32 in article 5 of this chapter.

33 D. If the department issues a special ignition interlock restricted
34 driver license, the department shall not delete a suspension or revocation
35 from its records.

36 E. The granting of a special ignition interlock restricted driver
37 license does not reduce or eliminate the required use of an ignition
38 interlock device pursuant to section 28-3319.

39 Sec. 12. Section 28-1402, Arizona Revised Statutes, is amended to
40 read:

41 28-1402. Issuance of special ignition interlock restricted
42 driver license; restrictions

43 A. On application pursuant to section 28-1401, subsection A the
44 department may, and pursuant to section 28-1401, subsection C the department
45 shall, issue a special ignition interlock restricted driver license that only

1 allows a person whose class D or class G license has been suspended or
2 revoked for a first offense of section 28-1321 or section 28-1383, subsection
3 A, paragraph 3 to operate a motor vehicle that is equipped with a functioning
4 certified ignition interlock device and only as follows:

5 1. Between the person's place of employment and residence during
6 specified periods of time while at employment.

7 2. Between the person's place of residence, the person's place of
8 employment and the person's secondary or postsecondary school according to
9 the person's employment or educational schedule.

10 3. Between the person's place of residence and a screening, education
11 or treatment facility for scheduled appointments.

12 4. Between the person's place of residence and the office of the
13 person's probation officer for scheduled appointments.

14 5. Between the person's place of residence and the office of a
15 physician or other health care professional.

16 6. Between the person's place of residence and a certified ignition
17 interlock device service facility.

18 B. The department may only issue a special ignition interlock
19 restricted driver license to an applicant who is otherwise qualified by law.

20 ~~C. For as long as the person maintains a functioning certified~~
21 ~~ignition interlock device in the vehicle pursuant to this chapter, each time~~
22 ~~an installer obtains information recorded by a certified ignition interlock~~
23 ~~device the installer shall electronically provide in a form prescribed by the~~
24 ~~department the following information:~~

25 ~~1. Any tampering or circumvention.~~

26 ~~2. Any failure to provide proof of compliance or inspection of the~~
27 ~~certified ignition interlock device as prescribed in section 28-1461.~~

28 ~~3. Any attempts to operate the vehicle with an alcohol concentration~~
29 ~~exceeding the presumptive limit as prescribed in section 28-1381, subsection~~
30 ~~G, paragraph 3, or if the person is under twenty one years of age, attempts~~
31 ~~to operate the vehicle with any spirituous liquor in the person's body.~~

32 ~~D. The department may extend the special ignition interlock restricted~~
33 ~~driver license and the certified ignition interlock device period if the~~
34 ~~department has reasonable grounds to believe that any of the following~~
35 ~~applies:~~

36 ~~1. The person tampered with the certified ignition interlock device.~~

37 ~~2. The person attempted to operate the vehicle with an alcohol~~
38 ~~concentration exceeding the presumptive limit as prescribed in section~~
39 ~~28-1381, subsection G, paragraph 3, or if the person is under twenty-one~~
40 ~~years of age, the person attempted to operate the vehicle with any spirituous~~
41 ~~liquor in the person's body, three or more times during the period of license~~
42 ~~restriction or limitation.~~

43 ~~3. The person failed to provide proof of compliance or inspection as~~
44 ~~prescribed in section 28-1461.~~

~~E. If the special ignition interlock restricted license is extended pursuant to subsection D of this section, the limitations prescribed in sections 28-1381, 28-1382, 28-1383 and 28-3319 do not begin until the restrictive period of the license ends.~~

~~F.~~ C. Except as provided in section 28-1463, if the department suspends, revokes, cancels or otherwise rescinds a person's special ignition interlock restricted license or privilege for any reason, the department shall not issue a new license or reinstate the special ignition interlock restricted driver license during the prescribed period of suspension or revocation or while the person is otherwise ineligible to receive a license.

Sec. 13. Section 28-1403, Arizona Revised Statutes, is amended to read:

28-1403. Extension of interlock restricted licenses; hearing; scope

A. A person whose driver license restriction is extended pursuant to section ~~28-1402~~ 28-1461 may submit to the department a written request for a hearing. The written request must be received by the department within fifteen days after the date of the order of extension of the restriction. On receipt of a request for a hearing, a hearing shall be held within thirty days.

B. Hearings requested pursuant to this section shall be conducted in the same manner and under the same conditions as provided in section 28-3306. For the purposes of this section, the scope of the hearing shall include only the following issues:

1. Whether the person was issued a special ignition interlock restricted driver license.

2. Whether the person tampered with the certified ignition interlock device.

3. Whether the person attempted to operate the vehicle with an alcohol concentration exceeding the presumptive limit as prescribed in section 28-1381, subsection G, paragraph 3, three or more times during the period of license restriction or limitation. ~~or~~

~~4.~~ 4. If the person is under twenty-one years of age, whether the person attempted to operate the vehicle with any spirituous liquor in the person's body ~~three or more times~~ during the period of license restriction or limitation.

~~4.~~ 5. Whether the person submitted proof of compliance or inspection as prescribed in section 28-1461.

Sec. 14. Title 28, chapter 4, article 4, Arizona Revised Statutes, is amended by adding section 28-1445, to read:

28-1445. Alcohol or other drug screening, education and treatment; license suspension

A. THE DEPARTMENT OF TRANSPORTATION SHALL ORDER A PERSON WHOSE DRIVING PRIVILEGE, LICENSE, PERMIT, RIGHT TO APPLY FOR A LICENSE OR PERMIT OR NONRESIDENT OPERATING PRIVILEGE IS SUSPENDED PURSUANT TO SECTION 28-1385 TO

1 COMPLETE AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM
2 PURSUANT TO THIS CHAPTER. THE ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR
3 TREATMENT PROGRAM SHALL BE A PROGRAM THAT IS PROVIDED BY A FACILITY APPROVED
4 BY THE DEPARTMENT OF HEALTH SERVICES.

5 B. IF THE DEPARTMENT RECEIVES A REPORT FROM THE COURT THAT A PERSON
6 WAS CONVICTED OF A VIOLATION OF SECTION 28-1381, 28-1382 OR 28-1383 BEFORE
7 THE DEPARTMENT HOLDS A HEARING PURSUANT TO SECTION 28-1385, THE DEPARTMENT
8 MAY ACCEPT EVIDENCE SATISFACTORY TO THE DEPARTMENT AND IN A MANNER PRESCRIBED
9 BY THE DEPARTMENT, AFTER CONSULTING WITH THE ADMINISTRATIVE OFFICE OF THE
10 COURTS, OF COMPLETION OF AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR
11 TREATMENT PROGRAM ORDERED BY THE COURT PURSUANT TO SECTION 28-1381, 28-1382,
12 28-1383 OR 28-1387 AS SUFFICIENT TO MEET THE ALCOHOL OR OTHER DRUG SCREENING,
13 EDUCATION OR TREATMENT PROGRAM REQUIREMENTS OF SECTION 28-1385 AND THIS
14 SECTION OR THE DEPARTMENT MAY ORDER THE PERSON TO COMPLETE ADDITIONAL ALCOHOL
15 OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAMS.

16 C. A PERSON WHO IS ORDERED TO COMPLETE AN ALCOHOL OR OTHER DRUG
17 SCREENING, EDUCATION OR TREATMENT PROGRAM SHALL REPORT TO THE DEPARTMENT, IN
18 A MANNER PRESCRIBED BY THE DEPARTMENT, WHETHER THE PERSON IS ACTIVELY
19 PARTICIPATING IN OR HAS SUCCESSFULLY COMPLETED THE PROGRAM.

20 D. A PERSON WHO IS ORDERED TO COMPLETE AN ALCOHOL OR OTHER DRUG
21 SCREENING, EDUCATION OR TREATMENT PROGRAM IS RESPONSIBLE FOR PAYING THE COSTS
22 OF THE PROGRAM.

23 E. THE DEPARTMENT SHALL ISSUE A DRIVER LICENSE OR PERMIT OR REINSTATE
24 A PERSON'S DRIVING PRIVILEGE ONLY IF THE PERSON PROVIDES SATISFACTORY
25 EVIDENCE TO THE DEPARTMENT THAT THE PERSON HAS COMPLETED OR IS ACTIVELY
26 PARTICIPATING IN AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT
27 PROGRAM.

28 F. A PERSON WHO PROVIDES AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION
29 OR TREATMENT PROGRAM SHALL ELECTRONICALLY REPORT THE FOLLOWING TO THE
30 DEPARTMENT IN A FORM PRESCRIBED BY THE DEPARTMENT:

31 1. THE COMPLETION OR PARTICIPATION OF A PERSON ORDERED BY THE
32 DEPARTMENT TO ATTEND A PROGRAM PURSUANT TO THIS SECTION.

33 2. THE FAILURE OF A PERSON TO ATTEND OR COMPLETE A PROGRAM AS ORDERED
34 BY THE DEPARTMENT PURSUANT TO THIS SECTION.

35 3. THE UNSATISFACTORY PARTICIPATION OF A PERSON ATTENDING A PROGRAM AS
36 ORDERED BY THE DEPARTMENT PURSUANT TO THIS SECTION.

37 G. IF THE DEPARTMENT REINSTATES A PERSON'S DRIVING PRIVILEGE FOLLOWING
38 A SUSPENSION IMPOSED PURSUANT TO SECTION 28-1385 BUT HAS REASONABLE GROUNDS
39 TO BELIEVE THAT THE PERSON IS NOT COMPLYING WITH THE DEPARTMENT'S ORDER TO
40 COMPLETE OR PARTICIPATE IN AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR
41 TREATMENT PROGRAM, THE DEPARTMENT SHALL SUSPEND THE PERSON'S DRIVING
42 PRIVILEGE UNTIL THE PERSON COMPLIES WITH THE DEPARTMENT'S ORDER OR UNTIL THE
43 DEPARTMENT RECEIVES A REPORT FROM THE COURT THAT THE COURT HAS ENTERED A
44 FINDING FOR THE CHARGE THAT GAVE RISE TO THE DEPARTMENT'S ACTION PURSUANT TO
45 SECTION 28-1385.

1 Sec. 15. Section 28-1461, Arizona Revised Statutes, is amended to
2 read:

3 ~~28-1461.~~ Use of certified ignition interlock devices; reporting

4 A. If a person's driving privilege is limited pursuant to section
5 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
6 28-1402:

7 1. The person shall:

8 (a) Pay the costs for installation and maintenance of the certified
9 ignition interlock device.

10 (b) Provide proof to the department of installation of a functioning
11 certified ignition interlock device in each motor vehicle operated by the
12 person.

13 (c) Provide proof of compliance to the department at least once every
14 ninety days during the period the person is ordered to use an ignition
15 interlock device.

16 (d) Provide proof of inspection of the certified ignition interlock
17 device for accurate operation and the results of the inspection to the
18 department at least once every ninety days during the period the person is
19 ordered to use an ignition interlock device.

20 2. The department shall not reinstate the person's driving privilege
21 or issue a special ignition interlock restricted driver license until the
22 person has installed a functioning certified ignition interlock device in
23 each motor vehicle operated by the person and has provided proof of
24 installation to the department.

25 B. WHILE A PERSON MAINTAINS A FUNCTIONING CERTIFIED IGNITION INTERLOCK
26 DEVICE IN A VEHICLE PURSUANT TO THIS CHAPTER, EACH TIME AN INSTALLER OBTAINS
27 INFORMATION RECORDED BY A CERTIFIED IGNITION INTERLOCK DEVICE THE INSTALLER
28 SHALL ELECTRONICALLY PROVIDE TO THE DEPARTMENT IN A FORM PRESCRIBED BY THE
29 DEPARTMENT THE FOLLOWING INFORMATION:

30 1. ANY TAMPERING OR CIRCUMVENTION.

31 2. ANY FAILURE TO PROVIDE PROOF OF COMPLIANCE OR INSPECTION OF THE
32 CERTIFIED IGNITION INTERLOCK DEVICE AS PRESCRIBED IN THIS SECTION.

33 3. ANY ATTEMPT TO OPERATE THE VEHICLE WITH AN ALCOHOL CONCENTRATION
34 EXCEEDING THE PRESUMPTIVE LIMIT AS PRESCRIBED IN SECTION 28-1381,
35 SUBSECTION G, PARAGRAPH 3 OR, IF THE PERSON IS UNDER TWENTY-ONE YEARS OF AGE,
36 ANY ATTEMPT TO OPERATE THE VEHICLE WITH ANY SPIRITUOUS LIQUOR IN THE PERSON'S
37 BODY.

38 C. ON REQUEST, THE INSTALLER SHALL PROVIDE THE INFORMATION PRESCRIBED
39 IN SUBSECTION B OF THIS SECTION TO:

40 1. THE DEPARTMENT OF HEALTH SERVICES AUTHORIZED PROVIDER.

41 2. THE PROBATION DEPARTMENT THAT IS PROVIDING ALCOHOL OR OTHER DRUG
42 SCREENING, EDUCATION OR TREATMENT TO THE PERSON.

43 3. THE PHYSICIAN, PSYCHOLOGIST OR CERTIFIED SUBSTANCE ABUSE COUNSELOR
44 WHO IS EVALUATING THE PERSON'S ABILITY TO SAFELY OPERATE A MOTOR VEHICLE

1 FOLLOWING A REVOCATION OF THE PERSON'S DRIVING PRIVILEGE AS PRESCRIBED IN
2 SECTION 28-3315, SUBSECTION D.

3 4. THE COURT.

4 D. THE DEPARTMENT SHALL EXTEND AN IGNITION INTERLOCK RESTRICTED OR
5 LIMITED DRIVER LICENSE AND THE CERTIFIED IGNITION INTERLOCK DEVICE PERIOD IF
6 THE DEPARTMENT HAS REASONABLE GROUNDS TO BELIEVE THAT ANY OF THE FOLLOWING
7 APPLIES:

8 1. THE PERSON TAMPERED WITH OR CIRCUMVENTED THE CERTIFIED IGNITION
9 INTERLOCK DEVICE.

10 2. THE PERSON ATTEMPTED TO OPERATE THE VEHICLE WITH AN ALCOHOL
11 CONCENTRATION EXCEEDING THE PRESUMPTIVE LIMIT AS PRESCRIBED IN SECTION
12 28-1381, SUBSECTION G, PARAGRAPH 3 THREE OR MORE TIMES DURING THE PERIOD OF
13 LICENSE RESTRICTION OR LIMITATION.

14 3. IF THE PERSON IS UNDER TWENTY-ONE YEARS OF AGE, THE PERSON
15 ATTEMPTED TO OPERATE THE VEHICLE WITH ANY SPIRITUOUS LIQUOR IN THE PERSON'S
16 BODY DURING THE PERIOD OF LICENSE RESTRICTION OR LIMITATION.

17 4. THE PERSON FAILED TO PROVIDE PROOF OF COMPLIANCE OR INSPECTION AS
18 PRESCRIBED IN THIS SECTION.

19 E. IF THE SPECIAL IGNITION INTERLOCK RESTRICTED LICENSE IS EXTENDED
20 PURSUANT TO SUBSECTION D OF THIS SECTION, THE LIMITATIONS PRESCRIBED IN
21 SECTIONS 28-1381, 28-1382, 28-1383 AND 28-3319 DO NOT BEGIN UNTIL THE
22 RESTRICTIVE PERIOD OF THE LICENSE ENDS.

23 ~~B.~~ F. The department shall make a notation on the driving record of a
24 person whose driving privilege is limited pursuant to section 28-1381,
25 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section
26 28-1402 that states that the person shall not operate a motor vehicle unless
27 it is equipped with a certified ignition interlock device.

28 G. PROOF OF COMPLIANCE DOES NOT INCLUDE A SKIPPED OR MISSED RANDOM
29 SAMPLE IF THE MOTOR VEHICLE'S IGNITION IS OFF AT THE TIME OF THE SKIPPED OR
30 MISSED SAMPLE.

31 Sec. 16. Section 28-3315, Arizona Revised Statutes, is amended to
32 read:

33 28-3315. Period of suspension, revocation or disqualification;
34 unlicensed drivers

35 A. The department shall not suspend, revoke or disqualify a driver
36 license or privilege to drive a motor vehicle on the public highways for more
37 than one year from the date of a conviction or judgment, if any, against a
38 person for which this chapter makes revocation, suspension or
39 disqualification mandatory or from the date the notice is sent pursuant to
40 section 28-3318 if no conviction was involved, except as permitted under
41 subsection E of this section and sections 28-1383, 28-3312, 28-3319, 28-3320
42 and 28-3473.

1 B. A person whose license or privilege to drive a motor vehicle on the
2 public highways has been revoked may apply for a new license as provided by
3 law after the cause of the revocation is removed or after expiration of the
4 revocation period prescribed by law. After the department investigates an
5 applicant's driving record in this state or another state by examining
6 department records or other sufficient evidence to determine that all
7 withdrawal actions are complete, that the applicant has not committed any
8 traffic violations within twelve months preceding application and that all
9 other statutory requirements are satisfied, the department may issue a new
10 license.

11 C. The department shall not accept an application for reinstatement of
12 a driver license until after the twelve month period prescribed in subsection
13 B of this section has elapsed.

14 D. If the revocation is related to alcohol or other drugs, the person
15 shall provide the department with a current evaluation from a physician
16 licensed pursuant to title 32, chapter 13, 17 or 29, a psychologist licensed
17 pursuant to title 32, chapter 19.1 or a substance abuse counselor as defined
18 in section 28-3005 indicating that, in the opinion of the physician,
19 psychologist or counselor, the condition does not affect or impair the
20 person's ability to safely operate a motor vehicle. For the purposes of
21 reinstating a license or driving privilege pursuant to this article, the
22 department may rely on the opinion of a physician licensed pursuant to title
23 32, chapter 13, 17 or 29, a psychologist licensed pursuant to title 32,
24 chapter 19.1 or a substance abuse counselor as defined in section 28-3005.

25 E. Notwithstanding subsections A and B of this section:

26 1. A person whose license or privilege to drive is revoked pursuant to
27 section 28-1383, subsection ~~J~~ K or section 28-3304, subsection A, paragraph
28 1 or 12 is not entitled to have the person's license or privilege renewed or
29 restored for three years.

30 2. A person whose license or privilege to drive is revoked pursuant to
31 section 13-1209 is not entitled to have the person's license or privilege
32 renewed or restored for the period of time ordered by the court.

33 3. A person whose license, permit or privilege to drive is revoked
34 pursuant to section 28-661, subsection E is not entitled to have the person's
35 license, permit or privilege renewed or restored for five years.

36 4. A person whose license, permit or privilege to drive is revoked
37 pursuant to section 28-661, subsection F is not entitled to have the person's
38 license, permit or privilege renewed or restored for three years.

39 F. Except as provided in section 28-3473, if an unlicensed driver
40 commits an offense for which a driver license could be suspended, revoked or
41 disqualified, the department shall not accept the unlicensed driver's
42 application for a driver license for a period equal to the period of time
43 that applies to a driver with a license. If the offense is one for which a
44 driver license could be revoked, the department shall not accept the
45 unlicensed driver's application for a driver license unless it investigates

1 the character, habits and driving ability of the person and is satisfied that
2 it is safe to grant the privilege of driving a motor vehicle on the public
3 highways.

4 G. The expiration of a person's license during the period of time it
5 is under suspension, revocation or disqualification does not invalidate or
6 terminate the suspension, revocation or disqualification.

7 H. A person whose license or privilege to drive a motor vehicle on the
8 public highways has been suspended pursuant to section 28-3306, subsection A,
9 paragraph 5 or section 28-3314 may apply for a new license as provided by law
10 after the cause for suspension is removed or after expiration of the
11 suspension period prescribed by law if both of the following conditions are
12 met:

13 1. The department is satisfied, after reviewing the medical condition
14 and driving ability of the person, that it is safe to grant the person the
15 privilege of driving a motor vehicle on the public highways.

16 2. If the person has a medical condition related to alcohol or other
17 drugs, the person provides the department with a current evaluation form from
18 a physician licensed pursuant to title 32, chapter 13, 17 or 29, a
19 psychologist licensed pursuant to title 32, chapter 19.1 or a substance abuse
20 counselor as defined in section 28-3005 indicating that, in the opinion of
21 the physician, psychologist or counselor, the condition does not affect or
22 impair the person's ability to operate a motor vehicle in a safe manner.

23 Sec. 17. Section 28-3319, Arizona Revised Statutes, is amended to
24 read:

25 28-3319. Action after license suspension, revocation or denial
26 for driving under the influence or refusal of test;
27 ignition interlock device requirement; definition

28 A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320
29 or 28-3322, the license of a driver or the driving privilege of a nonresident
30 is suspended or revoked, the department shall not terminate the suspension or
31 revocation or issue a special ignition interlock restricted driver license,
32 if applicable, pursuant to chapter 4, article 3.1 of this title until the
33 person provides proof of financial responsibility pursuant to chapter 9,
34 article 3 of this title.

35 B. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320
36 or 28-3322, an unlicensed resident is denied a license or permit to operate a
37 motor vehicle, the department shall not issue a license or permit until the
38 person provides proof of financial responsibility pursuant to chapter 9,
39 article 3 of this title.

40 C. If a person whose license or driving privilege is suspended or
41 revoked pursuant to section 28-1321, 28-1381, 28-1382, ~~OR~~ 28-1383 OR 28-1385
42 is ordered, pursuant to section 28-1381, 28-1382, ~~OR~~ 28-1383 OR 28-1385, to
43 attend alcohol or other drug screening, education or treatment, the
44 department shall not either:

1 1. Terminate the suspension or issue a special ignition interlock
2 restricted driver license, if applicable, pursuant to chapter 4, article 3.1
3 of this title until the person provides proof from the treatment facility
4 that the person has completed or is participating satisfactorily in alcohol
5 or other drug screening, education or treatment.

6 2. Issue a new license or a special ignition interlock restricted
7 driver license, if applicable, pursuant to chapter 4, article 3.1 of this
8 title to operate a motor vehicle after the revocation until the person
9 provides proof from the facility that the person has completed the court
10 ordered program.

11 D. On receipt of a report of conviction from a court, the department
12 shall require any motor vehicle the convicted person operates to be equipped
13 with a functioning certified ignition interlock device and the convicted
14 person to meet the requirements prescribed in section 28-1461 ~~for twelve~~
15 ~~months if any of the following applies~~ AS FOLLOWS:

16 1. FOR TWELVE MONTHS IF:

17 (a) THE PERSON IS CONVICTED OF A VIOLATION OF SECTION 28-1381 OR
18 SECTION 28-1382, SUBSECTION A, PARAGRAPH 1.

19 (b) The department determines that within a period of eighty-four
20 months ~~a~~ THE person is convicted of a second or subsequent violation of
21 section 28-1381 OR SECTION 28-1382, SUBSECTION A, PARAGRAPH 1 with a prior
22 conviction of a violation of section 28-1381, ~~or~~ 28-1382 OR 28-1383 or an act
23 in another jurisdiction that if committed in this state would be a violation
24 of section 28-1381, ~~or~~ 28-1382 OR 28-1383.

25 ~~2. The person is sentenced pursuant to section 28-1381 or 28-1382,~~
26 ~~subsection D, except that if the person's alcohol concentration is 0.20 or~~
27 ~~more, the certified ignition interlock device is required for eighteen~~
28 ~~months.~~

29 ~~3. The person is sentenced pursuant to section 28-1382, subsection F,~~
30 ~~except that if the person's alcohol concentration is 0.20 or more, the~~
31 ~~certified ignition interlock device is required for twenty-four months.~~

32 ~~4. The conviction is for a violation of section 28-1383, subsection A,~~
33 ~~paragraph 1, 2 or 4 or paragraph 3, subdivision (b).~~

34 2. FOR EIGHTEEN MONTHS IF THE PERSON IS CONVICTED OF A VIOLATION OF
35 SECTION 28-1382, SUBSECTION A, PARAGRAPH 2.

36 3. FOR TWENTY-FOUR MONTHS IF:

37 (a) THE PERSON IS CONVICTED OF A VIOLATION OF SECTION 28-1382,
38 SUBSECTION A, PARAGRAPH 2 AND THE DEPARTMENT DETERMINES THAT WITHIN A PERIOD
39 OF EIGHTY-FOUR MONTHS THE PERSON HAS A PRIOR CONVICTION OF A VIOLATION OF
40 SECTION 28-1381, 28-1382 OR 28-1383 OR AN ACT IN ANOTHER JURISDICTION THAT IF
41 COMMITTED IN THIS STATE WOULD BE A VIOLATION OF SECTION 28-1381, 28-1382 OR
42 28-1383.

43 (b) THE PERSON IS CONVICTED OF A VIOLATION OF SECTION 28-1383.

44 E. The requirement prescribed in subsection D of this section begins
45 on the date of reinstatement of the person's driving privilege following a

1 suspension or revocation or on the date of the department's receipt of the
2 report of conviction, whichever occurs later.

3 F. A person who is required to equip a motor vehicle with a certified
4 ignition interlock device pursuant to ~~subsection D of~~ this section shall
5 comply with chapter 4, article 5 of this title.

6 G. For the purposes of this section, "certified ignition interlock
7 device" has the same meaning prescribed in section 28-1301.

8 Sec. 18. Effective date

9 This act is effective from and after December 31, 2008.